



Ultratec, Inc. • 450 Science Drive, Madison, Wisconsin 53711 • (608) 238-5400 (Voice/TDD) • FAX (608) 238-3008

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October 28, 1996

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

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Re: Implementation of Section 255 of the Telecommunications Act of 1996
Access to Telecommunications Services, Telecommunications Equipment, and
Customer Premises Equipment By Persons with Disabilities (WT Docket
No. 96-198)

Dear Commissioners:

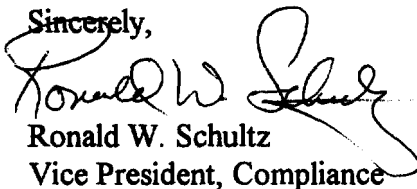
Ultratec, Inc. submits these comments in response to the Federal Communications Commission's (FCC's) Notice of Inquiry (NOI) regarding Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96-198 (Released: September 19, 1996).

Ultratec Inc. is a leading designer and manufacturer of Text Telephone communications equipment used by Deaf and Hard of Hearing individuals and has been providing this type of equipment nationally and internationally since 1978. Ultratec seeks to assure that the accessible needs of all individuals are met and to insure that in a free market competition, inventiveness and innovation are permitted to continue to allow Americans with disabilities to achieve their maximum potential.

Ultratec Inc. comments are attached, organized by the NOI's paragraph numbering.

Thank you for the chance to comment on the Implementation of Section 255 of the Telecommunications Act of 1996. We welcome any opportunity to assist further action or recourse.

Sincerely,


Ronald W. Schultz
Vice President, Compliance

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Paragraphs 1-6: Require no comment.

Paragraph 4: Ultratec, Inc. encourages the use of rulemaking and regulatory enforcement as a method of preference. Although this may result in additional burden to the providers of services or equipment, it is the only way of ensuring a level competitive playing field for all involved.

Paragraph 5: No comment required.

Paragraph 6: No comment required.

Paragraph 7: Ultratec, Inc. encourages the use of rulemaking and regulatory enforcement as a method of preference. Responding via customer complaints without prior rulemaking is not a good proactive solution to the problem and will be difficult to enforce as there are no common rules for manufactures or providers to follow. Voluntary guidelines would not be effective as they would only be implemented if it is economically in the best interest of the provider or manufacturer. One could argue that the current system is already a result of voluntary guidelines and that it is clearly not effective for persons with disabilities because of the lack of profit potential for the providers. Ultratec, Inc. would like to see a rulemaking activity that includes the interests of all involved.

Many problems can be solved if service providers and CPE providers work together in cooperation. However, to date there has been limited success in solving accessibility problems because of costs and economic restraints. One of the responsibilities of the FCC and Access Board should be the ability to force results based on problems and proposed solutions by one party or the other.

Paragraph 8: "Provider of telecommunications service" should be well defined. This action can further clarify who is responsible for compliance to established guidelines or standards. An example might be the Telecommunications Relay System where the 'provider' could be either the telephone service provider or the Relay provider. Each has their own, but different responsibilities, for accessible service to those with disabilities.

Paragraph 9: As a CPE provider whose market is mainly for people with hearing loss, we are very interested in how CPE and telecommunications equipment is defined and the rulemaking that would affect this type of equipment. One area of primary interest is the definition and treatment of payphone equipment and how it is made accessible to the Deaf and Hard of Hearing.

Paragraph 10: The treatment of telecommunications equipment and CPE should be different. Telecommunications equipment must be intended for all users and therefore will need regulations and requirements that benefit everyone. Additionally, since there is often little choice with telecommunications equipment it can be the barrier preventing access to persons with disabilities. Changes to telecommunications equipment can be very difficult to implement via retrofitting, it is often CPE that can accomplish the task of providing

accessibility while using the existing telecommunications equipment. CPE equipment can be designed to fill a broad or narrow market need, depending on the intended use of the equipment. Rulemaking should not disallow the narrow market focus for some CPE equipment that may be needed to advance technology for the sake of accessibility. At times consideration must be given to the CPE provider from the service provider or telecommunications equipment provider to allow existing and new technology to accomplish the accessibility that may be required (e.g., digital lines that are diversified and unique disallowing TTYs and other analog devices to be directly connected). Service providers should not be allowed to install features that compromise the accessibility of existing technology for those with disabilities or limit the future use of the network by persons with disabilities.

In terms of responsibility, CPE providers should not be held liable for failure of telecommunications service or equipment providers to implement or allow technology to provide access. Similarly, telecommunications service or equipment providers should not be held liable for the failure of CPE manufacturers to provide a product that is accessible, provided they have done what was necessary to allow for the accessibility.

Paragraph 11: Ultratec, Inc. feels strongly that rulemaking and enforcement for the benefit of those who are disabled is important, but feel that the results of the rulemaking should continue to allow free market competition and inventiveness. Constrictions or rulemaking that provide undue burden and expense for telecommunications service providers or manufacturers will only result in an undesirable or costly product which may not be in the best interest of the intended user.

It is almost certainly impossible to design any one CPE that would meet all the requirements for all people including all disabilities. Users' requirements and desires define products for individual needs. CPE providers will need to continue to make products that meet individual customers' needs. However, it only makes sense to develop products that meet the broadest consumer market needs possible, including options and features that allow users with disabilities to adequately use the product. At times, important features for people with disabilities can be invisible to the average user and add little additional cost to the unit (i.e., Hearing aid-compatible transducers for telephone handsets). Features like this should be a mandatory requirement.

No consideration should be given to a manufacturer that meets different standards because of markets in other nations. All should be required to meet the same minimum requirements.

Paragraph 12: The final manufacturer of a product or provider of a service should be ultimately responsible for its accessibility. The individual components do not provide the accessibility, but the manner in which they are used or incorporated defines how the product or service works or is provided. Re-sellers should not be responsible for this as rarely do they possess the background, or capability to insure accessibility. It should be the end manufacturer or provider that is ultimately responsible.

Paragraph 13- 15: No comment.

Paragraph 16: A telecommunications service or CPE provider should be responsible to upgrade and comply with accessibility requirements when "readily achievable". We agree that determining the definition of "readily achievable" is the main problem here. What may be readily achievable for one company or provider may not be feasible or possible for another. Allowance needs to be made for size of market, size of company and resources needed and available to provide the accessibility. Additionally, as technology advancement occurs it may or may not be reasonable to upgrade or provide the new technology unless or until it becomes economically feasible to do so. Instead a more probable way of insuring access is to make it economically feasible for the companies involved. If funds were made available to companies to help offset research, development & design costs it could be a vehicle to encourage development of products and competition to improve or provide accessibility where it does not exist today. Additionally, complaint-by-complaint issues that would require special accessibility could be accomplished by providing resources and funds to providers or manufacturers to assist in accomplishing the task of providing for that accessibility.

Additional consideration should be made to insure that an inaccessibility would possibly never be addressed if at some time it was shown that it was not readily achievable. Care must be taken to insure that when it becomes readily achievable that the accessibility be provided.

Paragraph 17: The issue of cost in determining whether something is "readily achievable" is a very important component. Upgrade is almost always going to be more costly than if the accessibility can be designed in at the initial design. Rarely is it possible to change an existing product with small degree of cost. There is always a need for a minimum of compatibility and field testing to insure the change performs as required and does not cause unintended problems. This testing alone can be significant, even if the change is small, not to mention engineering or tooling costs that may be necessary to allow for the change. However, most products and services are improved and do change over time. It only makes sense to incorporate improvements for accessibility at the same time as these improvements are implemented, if they are readily achievable. Additionally, we must realize that market pressures because of the new availability of technology may alone be the forcing mechanism for the upgrade or change and that further regulation may not be necessary.

Cost savings during the design phase are much more realizable when compared to changes made after the product is in production. The degree of cost savings is difficult to determine and would depend on the nature of the design requirement. Additionally, care must be taken to not over regulate the design process in an effort to enforce design consideration for accessibility. In the same regard solid and carefully identified design requirements based on well established standards can greatly improve and reduce the costs associated with the design of a product. It can be very expensive and add a great deal of

burden to a design if the requirements are nebulous and continuously changing. For this reason we would request that minimum standards and guidelines on accessibility are established that would serve to satisfy as many accessible needs as possible and reasonable.

Paragraph 18: Financial resources indeed play an important role in the application of the requirements. Regulations can and will burden companies, services and technology if not carefully applied. If the burden is too great, the result will be a loss of a reasonable technology, product or service because of the inability to comply financially. Regulations, if not carefully applied, can serve as a financial or technical barrier for small or new companies from entering the market and providing new or improved technologies or competition. Since the financial resource is going to be different for each company and each situation there may not be a formula that can be used to determine the magic number for "readily achievable".

Paragraph 19: Again we feel that trying to justify "readily achievable" based on financial resources of the facility is going to be difficult, if not impossible.

Paragraph 20: As a CPE provider we realize that any common effort in design of a product that will lead to other markets, including international, only makes sense and can be an efficient design process. However, because of different cultural and regulatory requirements it is our experience that this is very difficult and in many cases impossible to accomplish.

Paragraph 21: We feel that it should be the responsibility of the manufacturer to provide guidelines as to how the product is intended to be used to make it accessible to the majority of users. Accessibility to certain individuals may be enhanced by innovation or change and this should be allowed and encouraged to accomplish that goal. However, the manufacturer should not be held responsible for change or misuse of the product. Additionally, it would only make sense that if a deviation from the manufacturers' recommendations were performed to allow for a special disability or situation, that there would be an alternate or additional installation provided that would follow the manufacturers' guidelines to again meet the needs of many, as determined by the manufacturer.

Paragraph 22: We feel that it is the service providers' responsibility to research and understand how the service provided may be used to accomplish access. Only the provider has the understanding of the capabilities of the services and equipment, to determine what accessibility is possible.

Mainly due to cost factors, it is unreasonable to ask a CPE provider to be able to provide equipment that could be used for any disability if it provides equipment for one specific disability. Additionally, it is not likely to be feasible or reasonable to design one piece of equipment that could be universal and work for all persons with disabilities. If the service provider can not find a way to accomplish accessibility for a specific individual or problem

there should be some type of financial assistance to allow for this feasibility. Providing financial assistance to the service provider and/or CPE provider could help effectively bring about solutions to accessibility problems, even special ones.

Paragraph 23-24: No comment.

Paragraph 25: Payphone equipment that allows a payphone to be used by a Deaf or Hard of Hearing individual would be one possible example of specialized CPE.

Paragraph 26-27: No comment.

Paragraph 28: We feel that it should be the responsibility of the FCC to propose and enforce rulemaking for accessibility of telecommunications equipment and services as it has done so for other situations. We also feel that the current trend towards manufacturers or providers declaration of conformity should be encouraged as it does result in less bureaucracy, but yet does not resolve the manufacturer or service provider of responsibility.

Paragraph 29: With accessibility rulemaking for both service and product providers and with enforcement, the complaints can and should be handled on a complaint-by-complaint basis. All other solutions would be less effective.

Paragraph 30: There should be minimum mandatory guidelines and standards for telecommunications accessibility. Additionally, voluntary or recommended guidelines would be helpful and could encourage the direction future products take.

Paragraph 31: Guidelines, policy standards and incentives to encourage the interactive process between service providers and equipment manufacturers would be welcomed if it would not prove to be restrictive to existing or potential relationships between service providers, telecommunications equipment manufacturers and CPE.

Paragraph 32: Guidelines on this regard would be much appreciated.

Paragraph 33: Complaints should be resolved by independent means. It is our opinion that this rulemaking and assessment be done by the FCC. Again financial assistance would allow small companies to participate rather than exclude them.

Paragraph 34: All services and products, especially mainstream, should meet the accessible needs of as many as possible.

Paragraph 35 - 46: No comment.